**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION NO.5297 OF 1998**

**DATED: 13-03-2007**

Between :

Dr. P. Sobhan Babu ... Petitioner

And

1. The Government of Andhra Pradesh, rep. by
   Its Secretary, Social Welfare (S-3) Department,
   Hyderabad-500 022., and 3 others. .... Respondents

**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION NO.5297 OF 1998**

**ORDER :**

This writ petition is filed seeking a declaration that G.O.Ms.No.106, Social Welfare (S-3) Department, dated 24-10-1995 issued by the 1st respondent directing the 3rd respondent – District Collector to take necessary action to cancel the caste certificate issued to the petitioner as arbitrary and illegal.

Under the impugned order there was also a direction to launch prosecution against the petitioner under Section 11 of The Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act 16 of 1993 (for short, 'the Act 16 of 1993') apart from realising the amounts spent by the Government on the individual for MBBS course.

I have heard the learned Counsel for both the parties and perused the material on record.

It is not in dispute that W.P.No.8884 of 1987 filed by the petitioner herein claiming that he belongs to Kondakapu (Scheduled Tribe) was dismissed by this Court negativing the petitioner's claim. The same was confirmed on appeal by a Division Bench and even the Special Leave Petition preferred before the Supreme Court was dismissed.

In pursuance thereof the impugned G.O.Ms.No.106, dated 24-10-1995 was issued requesting the Collector, Kunrool District to take necessary action not only for cancellation of the caste certificate issued to the petitioner and other sons of Sri P. Venkateswara

Rao (petitioner's father) as Kondakapu but also to launch prosecution under Section 11 of Act 16 of 1993 and to take other necessary action.

The impugned order is challenged primarily on the ground that since Act 16 of 1993 was not in force on the date when he sought admission into MBBS Course and MD Course and even on the date of the impugned order, the same is illegal and without jurisdiction.

It is true that Act 16 of 1993 has come into force w.e.f. 16-5-1997. However, under the impugned order no order as such was passed either cancelling the caste certificate of the petitioner or launching prosecution against him but it was only in the nature of instructions/directions to the competent authority to take action in terms of the order of this Court in W.P.No.8884 of 1987. Hence, it cannot be held that the said order is without jurisdiction on the ground that Act 16 of 1993 was not enforced as on the date of the impugned order. At any rate, since as on today Act 16 of 1993 is in force, it is always open to the competent authority to take appropriate action in accordance with the order of this Court in W.P.No.8884 of 1987.

As could be seen, by virtue of the interim order dated 27-2-1998 the impugned order has not been given effect to so far.

In the circumstances, I deem it appropriate to dispose of the Writ Petition leaving it open to the respondents to take appropriate steps in accordance with the impugned order which is inconsonance with the order of this Court in W.P.No.8884 of 1987, following the procedure prescribed under the provisions of the Act 16 of 1993. No costs.

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G. ROHINI, J.

Dt. 13-3-2007

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